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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,090	02/02/2004	Roberto Semcia	KAR 001	9265

39232 7590 02/16/2007
Themis Intellectual Property Counsel
7660 Fay Ave Ste H378
La Jolla, CA 92037

EXAMINER

RIVELL, JOHN A

ART UNIT	PAPER NUMBER
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3753

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
2 MONTHS	02/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.		Applicant(s)	
	10/770,090		SEMEIA, ROBERTO	
	Examiner		Art Unit	
	John Rivell		3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/27/06 (amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3, 11-38 and 48-66 is/are pending in the application.
- 4a) Of the above claim(s) 3, 11-38 and 48 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49-66 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's arguments, filed November 27, 2006, with respect to added claims 49-66 have been fully considered and are persuasive.

Claims 49-66 are allowed.

The response filed November 27, 2006 included amendments to the specification which will not be entered. While there is no objection to the substance of the proposed amendment, the instructions to enter, in terms of the paragraph numbers used, are incorrect.

As noted by applicant, the proposed amendment to the specification uses paragraph numbers used in the Patent Application Publication document. Unfortunately, the record copy, which the Office uses during Examination, does not always reflect exactly, in terms of the paragraph numbers, the Patent Application Publication copy. In this particular instance, the paragraph numbers of the record copy, to which applicants proposed amendments will be made, does not reflect identically relative to the paragraph numbers used, with the Patent Application Publication document. Accordingly, should applicants proposed amendment be physically made to the record copy, the resulting specification used for printing purposes would include essentially duplicate paragraphs as well as elimination of certain other paragraphs, a situation presumed unsatisfactory to applicant. Additionally, because of this numbering confusion, it is unclear where newly proposed paragraph [0054.1] should be located.

Accordingly, it is suggested that applicant resubmit these amendments and that they be made relative to the record copy of the application, which is a duplicate of the exact specification applicant originally filed.

Concerning the claims, as noted above claims 49-66 are allowed. Claims 3, 11-38 and 48 remain pending but withdrawn as being directed to a non-elected species.

Art Unit: 3753

This election was traversed. Of the above, claims 3, and 11-17 currently depend, directly or indirectly, on a canceled claim. Additionally, it is noted that claims 39-47 are listed in the claims amendment section as "claims 39-47 (Original)" with no additional claim language or notation. In the remarks applicant explicitly noted that "claims 1-2, 4-10 and 39-47 are canceled" and makes no further comments concerning claims 39-47. Accordingly, Claims 39-47 are treated herein as if canceled.

A complete reply to this action should include cancellation of nonelected claims or other appropriate action as well as corrected specification amendments.


Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


John Rivell
Primary Examiner
Art Unit 3753

j.r.